BEFORE THE APPEALS BOARD FOR THE KANSAS DIVISION OF WORKERS COMPENSATION

MONTE C. THOMAS)
Claimant)
VS.)
	,) Docket No. 179,977
MASTER AIR CONTROL, INC. Respondent	,)
AND))
FEDERATED MUTUAL INSURANCE CARRIER CO.))
Insurance Carrier)

ORDER NUNC PRO TUNC

This Order Nunc Pro Tunc shall change the last full paragraph on page 5 of the Appeals Board's May 29,1998, Order. Due to a computer error, the last sentence of this paragraph was not complete. The full paragraph should now read as follows:

The Administrative Law Judge found respondent was not subrogated to claimant's settlement recovery obtained in the civil lawsuit. The Administrative Law Judge reasoned the journal entry of settlement was approved by the district court and the journal entry had designated the settlement for loss of consortium of claimant's wife. K.S.A. 44-504(b) specifically excludes any recovery designated by the court as loss of consortium or loss of services of a spouse from an employer's subrogation interest or lien. Additionally, the Administrative Law Judge pointed out the record contains uncontradicted evidence that the respondent and its insurance carrier had notice of the civil lawsuit and failed to exercise their statutory right to intervene in the lawsuit and protect their interest.

IT IS SO ORDERED.

Dated this day of J	une 1998.
	BOARD MEMBER
	BOARD MEMBER
	BOARD MEMBER

c: Robert R. Lee, Wichita, KS Vincent A. Burnett, Wichita, KS Jon L. Frobish, Administrative Law Judge Philip S. Harness, Director